



PURCHASING POLICY AND PROCEDURES

City of Foley, Alabama

Revised November 23, 2016

Resolution 16-1331

Adopted December 16, 2002 – Resolution No. 2090-02

Revised May 18, 2010 – Resolution No. 4082-10

Revised April 2, 2012 – Per Travel Policy & Procedures Update Resolution 4872-12



City of Foley, AL

407 E. Laurel Avenue
Foley, AL 36535

Signature Copy

Resolution: 16-1331-RES

File Number: 16-0711

Enactment Number: 16-1331-RES

A Resolution Amending the Purchasing Policy and Procedures

WHEREAS, on December 16, 2002, the Foley City Council passed Resolution 2090-02 which adopted a Purchasing Policy and Procedures (Policy) for the City of Foley, and

WHEREAS, updates were made to the Policy: May 7, 2010, by Resolution 4082-10; April 2, 2012, by Resolution 4872-12, and,

WHEREAS, the Policy is revised from time to time as changes to laws and other changes are necessitated.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Foley, Alabama, as follows:

SECTION 1: Adopts the November 23, 2016 revisions to the City's Purchasing Policy and Procedures as set forth and attached hereto.

SECTION 2: This Resolution shall become effective immediately upon its adoption as required by law.

PASSED, APPROVED AND ADOPTED this 5th day of December, 2016.



President's Signature

Date

12-6-2016

Attest by City Clerk

Date

12-6-2016

Mayor's Signature

Date

12/9/16

City of Foley, Alabama
Purchasing Policy and Procedures

PREFACE

Purchasing involves the purchase, lease, and/or rent of property and services. Property has a broad definition and can range from paper clips to computer equipment. Services can include maintenance and consultation. Every municipality must purchase, lease, or rent. **It is important for the employees of the City of Foley to be good stewards of our citizen's tax dollars.** Adoption and observation of a proper purchasing procedure can help the municipality save money and purchase better quality goods and services.

Budgeting, accounting, and purchasing need to be closely coordinated, which ultimately strengthens financial control. The key players in the purchasing process include the municipal governing body, the department heads, **and the municipal clerk.**

CHAPTER 1
INTRODUCTION

These procedures contain the current policy, procedures, and guidelines to be followed for all future purchases by the City.

The purpose of these procedures is to document and establish a uniform, orderly, and proper method of buying goods and services for the City. These policies, procedures, and guidelines will apply to all City employees, City officers, and agents when buying any goods or services for the City.

In an event of a conflict between the policies and procedures contained herein and state or federal law, the state or federal law shall control. In the event of any conflict between the policies and procedures contained herein and any previous policies, practices or procedures of the City, the provisions contained herein shall control.

These procedures are adopted by resolution of the City Council and any changes may be made by resolution only. This does not apply to the department level procedures that may be developed to augment this policy.

CHAPTER 2
PROHIBITED ACTS

SECTION 2.1 – CONFLICTS OF INTEREST

No Council member, Mayor, officer, or employee of Foley shall be directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is paid from the treasury. (Code of Alabama, §11-43-12) **Single, transactional purchases from businesses owned or operated by City of Foley public officials, employees, or spouses, parents and children of employees are permitted in the event that these transactions are not done by, or at the direction of, the public official or employee and are not on-going or long-term purchases.**

No officer or employee may submit or approve a Purchase Order Request in which he or she shall be financially interested or have any personal beneficial interest, either directly or indirectly, in the purchase of or contract for any personal property or contractual service, nor in any firm, partnership, association, or corporation furnishing any such personal property or contractual services to the City. (Code of Alabama, §41-16-30)

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. (Code of Federal Regulations § 200.318)

Questions about potential conflicts of interest should be resolved prior to purchasing the good or service and prior to submitting a Purchase Order Request. Violations may constitute a crime under state law and subject the violator to civil and/or criminal penalties.

SECTION 2.2 – GIFTS FROM VENDORS

The officers, employees, and agents of the City may neither solicit nor accept gratuities, favors, or anything of monetary value, directly or indirectly, from any person, firm, association, corporation, contractor or parties to subcontracts to whom any future contract may be awarded as defined by the City's personnel policy, Code of Alabama § 41-16-30 and Code of Federal Regulations § 200.318. Violations may constitute a crime under state law and subject the violator to civil and/or criminal penalties.

The City's policy, as outlined in Section 2.6 of the Personnel System Policy (PSP), does not prohibit accepting *occasional* meals (not to exceed \$20) paid for by individuals or businesses doing business with or soliciting business from the City, or the receipt of gifts of minimal value (not to exceed \$35 in any calendar year) such as calendars or date books. The City recognizes that on occasion an employee will be in a higher cost area which will cause the \$20 meal limit to be exceeded. This may be due to the geographic location of the site chosen to dine. The employee shall use discretion in these matters. The employee should use such judgment that their actions are supportable.

SECTION 2.3 – COMPETITIVE BID AND PUBLIC WORKS LAWS

The competitive bid laws have been interpreted by the legal staff of the Department of Examiners of Public Accountants and the State Attorney General's office to mean that all expenditures of funds of whatever nature for labor services, work, or for the purchase or lease of materials, equipment, supplies or other personal property, involving \$15,000 or more, or for the lease of materials, equipment, supplies, or other personal property where the lessee is or becomes legally and contractually bound under the terms of the lease, to pay a total amount of \$15,000 or more, made by or on behalf of the City of Foley, shall be made under contractual agreement entered into by free and open competitive bidding, on sealed bids, to the lowest responsible bidder. This interpretation, also, means like items purchased by the City and its various departments involving \$15,000 or more in a fiscal year must be bid. A more complete discussion of this rule (commonly referred to as unit bidding) is provided in the next paragraph. Any violation of these laws makes a purchase contract null and void. Purchases may not be split in order to avoid the requirements of the bid laws. Willful violations of the competitive bid laws and the public works laws may subject the violator to civil

and/or criminal penalties. Please refer to the chapters below pertaining to public works and competitive bid requirements.

Unit Bids — State law requires unit bidding in any situation where the City reasonably knows that in a twelve-month period of time, \$15,000 or more of a given service or goods will be purchased. Gasoline, concrete, and white paper are examples. It is the responsibility of each Supervisor/Department Head to recognize these situations at the departmental level and Administration/Finance to recognize the need at a City-wide operational level. Unit bidding follows the same procedures as outlined herein for other competitive bidding.

CHAPTER 3

GENERAL PURCHASE PROCEDURE

SECTION 3.1 – GENERAL PROCEDURE

You are encouraged to “Shop Foley First” and then consider making purchases from businesses located within the County and State.

It is the responsibility of the individual/department in need of an item to obtain the best pricing available. The purchasing department will continue to alert departments of cost saving measures or programs available with various companies and will provide assistance when needed.

Except for those purchases which are expressly exempted herein from requiring one (as noted in Section 3.6), no products, goods, personal property, or services costing \$250 or more may be purchased without first having obtained an approved Purchase Order.

- 1) The City reserves the right to disqualify vendors or bidders due to poor or inadequate experiences or references. In situations of this nature, written documentation of vendor performance and their failure to remedy known substandard performance and/or issues should be kept on file for future reference. A report of such incidents should be provided to the Purchasing Agent.
- 2) No products, goods, personal property, or services costing \$250 or more may be purchased without first having obtained an approved Purchase Order, except for those purchases which are expressly exempted herein from requiring one (as noted in Section 4.6).
- 3) A purchase order shall not be required for charges made to vehicle or equipment Maintenance Accounts when the purchase amount is less than \$1,000.

SECTION 3.2 – NEW VENDOR MANAGEMENT

- 1) Purchase orders cannot be issued for new vendors until the vendor has been added into the accounting system.

Before making a purchase, determine if the vendor is currently set up in our system. If assistance is needed to do so, please contact Accounts Payable Finance Division vendor relations personnel.

If a purchase is made from a new vendor, it is the responsibility of the individual/department making the purchase to obtain a W-9 from the vendor and provide it to Accounts Payable so the vendor can be entered into the system. To avoid delays in getting your product/service, it is helpful to request these upon initial contact with the vendor.

- 2) Before a purchase is made from a new vendor, it is the responsibility of the individual/department making the purchase to obtain a W-9 from the vendor upon initial contact. Upon receipt of a W-9 by Accounts Payable, the vendor will be entered into the system within one business day.

If applicable, verify with the City Revenue Department that the vendor has a current business license.

The vendor may require the City to provide them with a tax exempt certificate. If so, notify Accounts Payable and provide them with the necessary information (company name, mailing address, fax number or email address if the vendor wants to receive the certificate by means other than USPS). The tax exempt certificate will be sent to the employee requesting by email or hard copy.

If a vendor requires the City to submit a credit application, provide Accounts Payable with the vendor forms and allow up to four business days for the credit application to be completed and returned to the vendor.

SECTION 4.3 – CREDIT CARD USAGE

Credit card usage shall comply with established procedures found in the currently adopted Credit Card Usage Policy.

When purchasing materials, supplies, etc., credit cards should only be used when the purchase cannot be made by check or store credit (ex. Wal-Mart, Office Depot, etc.).

SECTION 3.3 – COMPLETION OF A PURCHASE ORDER REQUEST FORM REQUISITION

A Purchase Order Request form (Attachment A) must be completed for purchases in the amount of \$250 or more. It is important to entirely complete the form.

Effective December 1, 2016, purchase orders will no longer be issued for new vendors until the vendor has been added by Accounts Payable as outlined in Section 3.2.

Blanket purchase orders may be submitted for items or services that will be required on an ongoing basis. It is the responsibility of the department head or assigned person to track expenditures in order to know the available balance and to ensure that the purchase order is always noted on receipts/invoices.

In the event that the purchase of an item requires the use of the Department's credit card, this should be noted in the "Payable To" section of the Purchase Order and the company the item was purchased from should be noted in the "Purchased From" section.

The "Payment Instructions" section should be completed to ensure that Accounts Payable knows when the check should be processed. If left blank, the purchase order will not be released and paid until an invoice is received or Accounts Payable is given other instructions. Unless special instructions are clearly written on the purchase order, checks issued will automatically be mailed.

The appropriate account number should be noted in the “GL Account Number” section. Examples have been included in “Attachment B” of some of the most commonly used accounts.

After ensuring all provisions of Chapters 2 – 3.3 are met;

- 1) Before making a purchase of \$250 or more, an employee must submit an Electronic Purchase Requisition through the accounting software. Provide as much details as possible on items being purchased.
- 2) Any purchases that are \$2,500 or more, up to \$14,999, will require three written proposals to be submitted and attached to the purchase requisition in order to ensure items are purchased at the best possible price or that a service is chosen based upon price and the best solution to your needs. (Add a note in the “Detailed Description” section of the requisition stating quotes are attached.) Exceptions to this requirement are services or items that are available through State contract, approved Purchasing Cooperatives, the South Alabama Purchasing Association (SAPA) or any other approved contract. If it is not possible to obtain three quotes because a service or product is not available from three vendors, an explanation should be provided in the “Detailed Description” section of the requisition.
- 3) All items in excess of \$14,999 should be bid through the Competitive Bid Process.
- 4) The appropriate account number should be noted in the “Account” section. It is the responsibility of the person entering the purchase requisition to make sure that the GL code is correct and that funds are budgeted and available in that account prior to submitting the requisition for approval. Contact the Finance Director if funds need to be transferred between accounts within the “other” category or the Human Resource Director within the “personnel” category. Invoice coding guidelines are included in “Attachment A” with examples for each account type.
- 5) In the event that the purchase of an item requires the use of the Department’s credit card, the credit card will be listed as the vendor and the company the item was purchased from should be noted in the Description. If a store card is used and the name on the card is different from that of the store (for example the Wal-Mart card is used at Sam’s Club), follow the same process noted for credit card purchases.
- 6) Purchase orders will not be released and paid until an invoice is received or Accounts Payable is provided with other instructions. Checks issued will automatically be mailed unless circumstances deem otherwise. The “Special Instructions” section should be completed during the requisition process to alert Accounts Payable of special situations and to provide them with specific details.
- 7) Blanket purchase orders may be submitted for items or services that will be required on an ongoing basis. It is the responsibility of the department head or assigned person to track expenditures in order to know the available balance and to ensure that the purchase order is always noted on receipts/invoices. Blanket purchase orders should be limited to one General Ledger account.
- 8) Once an Electronic Purchase Requisition is submitted, it is approved as follows:
 - a. Department Head - Verifies that the purchase is justified and authorizes expenditure to department account.

- b. Purchasing Agent - Verifies established procedures are being followed, and that the requisition has been filled out correctly.
- 9) In the event there are issues with your purchase requisition, contact the Purchasing Agent.
- 10) Purchasing Agent will convert all approved Purchase Requisitions to Purchase Orders within one business day.
- 11) A copy of the Purchase Order will be emailed to the Department who may then proceed with the purchase.
- 12) When possible, the Purchase Order number should be provided to the vendor when placing the order and a request should be made for this number to be noted on the invoice.
- 13) Any changes to already approved purchase orders should be made through the Purchasing Agent or Accounts Payable.

SECTION 3.4 – HOW TO OBTAIN AN APPROVED PURCHASE ORDER

A fully completed “Purchase Order Request” form must be turned into Finance prior to purchasing the goods or service. Except in cases of emergencies, discussed below in Section 5.5, no Purchase Order will be issued for purchases that have already been made. Any employee responsible for making a purchase without having a Purchase Order is in violation of these rules, will receive written notice of their error, and may be personally responsible for the cost of the item. Continued errors may lead to adverse employment action against the responsible employee.

In the event that an emergency purchase needs to be made during working hours, contact the Purchasing Department and a purchase order number will be assigned to you. The purchase order request form must be submitted as soon as possible.

Every effort will be made to either issue the approved Purchase Order or furnish information concerning a denial by the next business day. A copy of the approved Purchase Order will be placed in the department’s mailbox after issuance.

Purchase orders are approved by the Mayor or his designee.

The Purchase Order number must be provided to the vendor when placing the order and a request should be made for this number to be noted on the invoice.

SECTION 3.5 – CONDITIONS AND PROCEDURES FOR ISSUANCE OF PURCHASE ORDERS

Purchase orders will not be issued and purchases are not to be made unless funds to pay for the purchase have been budgeted and there exist available funds in the current year and/or the purchase qualifies under the terms of the City’s financial protocols.

It is the responsibility of the Supervisor/Department Head to develop procedures which will ensure that these purchasing policies and procedures are followed.

SECTION 3.6 – EXEMPTIONS FROM PURCHASE ORDER REQUIREMENTS

The purchase order procedures outlined herein shall not apply to the purchase or payment of

1. Recurring invoices, e.g., utilities, **periodic pest control, termite bonds, fire sprinkler inspections, payroll benefit payments, periodicals**
2. **Newspaper advertisements for display and legal ads.**
3. Professional services or other services where the skills and personality of the individual plays a decisive role in the outcome (**attorneys, physicians, architects, teachers, superintendents of construction, artists, appraisers, engineers, consultants, certified public accountants, public accountant, etc.**).
4. Insurance
5. Professional dues, **publications and manuals, etc.**
6. Any goods or services which have been specifically authorized by the City Council, such as contracts approved by competitive bid, public works contracts, or contracts authorized by Council action **where the vendor and approved amounts are specified**. The responsible party or entity will insure that the expenditure does not exceed the amount appropriated. The responsible party or entity will generally be the party that requested the appropriation and/or will administer the expending of the appropriated funds
7. Ballots and other election supplies for conducting City elections
8. Purchase of maps or photographs from a federal agency
9. Selection of paying agents and trustees for any security issued by the City
10. Renewal of existing contracts
11. Emergency purchases as defined within these procedures
12. Mayor and Council travel and convention expense
13. **Professional publications and manuals, etc.**
14. Travel and training expense, when authorized and conducted in accordance with the City's Travel Policy and Procedures.
15. **Purchases approved by Resolution wherein the vendor(s) to be paid is named, along with the item(s) to be purchased, and the amount to be paid are all included.**

SECTION 3.7 – HOW TO PRESENT RECEIPTS FOR PAYMENT

Only employees in good standing with the City may pick up and/or receive goods after having been so designated by the appropriate supervisor. **Supervisors are responsible for ensuring employees submit receipts in a timely manner.**

All receiving tickets, invoices, and purchase requisitions must be turned into the designated department representative as soon as possible **and forwarded to Accounts Payable within three work days after the purchase is made** **after purchase is made (preferably daily, but in no case longer than two work days after purchase).** The entire account number being charged and purchase order number if applicable, shall be plainly marked on the ticket, invoice, or purchase requisition. Buyers must sign the ticket, invoice, or purchase requisition legibly (if the signature is unreadable, print name under signature) and write a brief description of the purchase if there is no clear indication of what the purchase is. The supervisor or

designated representative will review the receipt, initial and date his/her approval before submission to Accounts Payable.

~~Invoices should be turned into Accounts Payable by close of business Tuesday in order to be paid on Thursday of that week. Changes to this schedule will periodically occur due to holidays and notification of such will be provided to all departments.~~ Invoices should be turned into Accounts Payable by the established cut-off in order to be paid that week. Contact Accounts Payable for the current cutoff date/time. Changes to this schedule will periodically occur due to holidays and notification of such will be provided to all departments.

When purchasing by credit card, send a copy of the signed and coded confirmation page to Accounts Payable as soon as possible to be matched to the credit card bill. Credit cards are not to be used to buy from vendors who accept payment by check or where store cards are established unless traveling out of town. A copy of the credit card log documenting monthly activity shall be provided to Accounts Payable on a monthly basis by the 5th day of each month. This log will be utilized by Accounts Payable to match receipts, locate missing receipts or to provide additional information when required.

When buying on store credit, send a copy of the signed and coded invoice to Accounts Payable as soon as possible to be matched to the vendor's statement. A copy of the store credit card log documenting monthly activity shall be provided to Accounts Payable on a monthly basis by the 5th day of each month. This log will be utilized to match receipts, locate missing receipts or to provide additional information when required.

When checks are issued, they are automatically mailed unless special instructions are clearly written on the invoice (i.e. pick up at City Hall/send to employee making purchase, etc.)

If Finance staff notices higher than normal amounts are being paid for items, the Department Head will be notified.

SECTION 3.8 – CENTRAL PURCHASING

From time to time, the City may consolidate purchasing of select goods or services to obtain them more efficiently and cost effectively. The consolidation may cross departmental lines at City level for such things as white paper, etc.

SECTION 3.9 – YEAR END CLOSURE TO PURCHASE ORDERS

The issuance of purchase orders will stop on September 15th each year and will not resume until October 1st. Purchase orders must be closed out by the end of the fiscal year (September 30th). Any purchase order that is not complete prior to September 30 will be voided. The definition of complete is when a purchase order item has been physically received and invoiced on or before September 30 or the work has been completed. If requested, purchase orders that are voided will be re-issued any time after October 1. If the purchase is for a capital item, you must make sure it is carried over in the budget for the new fiscal year. Purchase orders that are voided can be re-issued upon re-entry of a requisition by the appropriate City Department any time after October 1st. If the purchase is for a capital item, you must make sure it is carried over in the budget for the new fiscal year and approved by Council action.

SECTION 4.10 – FAILURE TO OBTAIN A PURCHASE ORDER

Items purchased without following the approved purchase order process will require a written explanation be provided to the City Administrator or their designee, along with the coded receipt/invoice. Upon review, the City Administrator shall approve or disapprove the purchase. Should the purchase be disapproved, the

employee who made the purchase may be held personally responsible for the cost of the item. Continued errors may lead to adverse employment action against the responsible employee.

CHAPTER 4

PURCHASES MADE FROM PETTY CASH

SECTION 4.1 – GENERAL

Purchases of less than \$50 may be made from petty cash as long as the purchase adheres to the following guidelines.

SECTION 4.2 – PROCEDURE

In order to account for funds at all times, when cash is removed from the petty cash drawer, leave documentation in the cash box indicating the date, the amount of money received, who the cash was obtained by, and the purpose for which these funds will be used. When the transaction is complete, this documentation can be removed.

SECTION 4.3 – PROHIBITED TRANSACTIONS

The following items may not be handled through the petty cash fund:

1. Purchases from vendors who have accounts set up with the City.
2. Payment to employees for their personal services. Salaries, overtime, and all compensation must be paid through regular payroll procedures
3. Cash advances to employees for any reason other than for specific qualified petty cash purchases
4. Cashing any type of check
5. Payment of freight bills, except carriers' (e.g. UPS, Express Mail) charges at the time of shipping
6. Payment supported by a duplicate invoice or receipt
7. Items of a personal nature which are generally not furnished by the City
8. Mileage reimbursement
9. Employee travel expenses, registrations, and tuition
10. Subscriptions and memberships
11. Items covered by existing purchasing contracts
12. Computer software and hardware
13. Printing services
14. Split or divided purchases in order to avoid non-petty cash purchasing procedures
15. Any purchase exceeding \$50
16. Reimbursing employees for purchases made with their personal credit card.

CHAPTER 5

MISCELLANEOUS

SECTION 5.1 – FREIGHT

All specifications and vendors' prices shall include freight charges, "free on board" (F.O.B.), to the appropriate City of Foley destination. All vendors shall be advised at the time prices are obtained that any freight charges

quoted will be the maximum paid by the City and under no circumstances will additional freight charges be paid.

SECTION 5.2 – BILLING ADDRESS

The City of Foley's billing address is as follows:

City of Foley
P.O. Box 1750
Foley, AL 36536
ATTN: Accounts Payable

SECTION 5.3 – PURCHASES MADE WITH GRANT FUNDS

When purchases are made with grant funds, the name of the grant, grant account number, and the amount to be charged must be plainly marked on the invoice or purchase order request. **Copies of these invoices should be provided to the Grant Administrator for proper recording.**

When Federal grant funds (direct or pass through funds) are used, the provisions of Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (also known as Common Rule) and OMB Circular A-87 (Cost of Principal for States and Local Governments) apply when they are more stringent than local rules and policy.

When implementing projects using grant funds, the City of Foley must comply with all regulations in accordance with the grant.

SECTION 5.4 – SALES TAX CERTIFICATES OF EXEMPTIONS

The incorporated municipalities of the State of Alabama are specifically exempted from the payment of Alabama Sales Tax on purchases of tangible personal property. Since a specific exemption is provided by law, a certificate of exemption is not needed. (Code of Alabama, § 40-23-4(11)). If verification is requested by a vendor, a form letter may be obtained from Accounts Payable. If further verification is needed, please have them call the Use Tax Division of the State Department of Revenue, telephone number (334) 242-1490.

SECTION 5.5 – EMERGENCY PURCHASES

Emergency Purchases of goods or services may be made by Supervisor/Department Heads without first having obtained a purchase order if the following conditions are met. "Emergency" signifies a situation that has suddenly arisen and requires speedy action (not enough time to secure an approved purchase order) or the provision of critical services by the City will be seriously interrupted. **THE LACK OF PLANNING DOES NOT CONSTITUTE AN EMERGENCY.** A member of Administration (Mayor or Clerk/Administrator) or the Finance Supervisor shall verbally concur on the purchase first. A regular purchase order will be issued after the fact for all emergency purchases and will have a written account of the emergency situation attached to act as verification of the emergency. For emergency purchases of \$15,000 or more which are subject to the competitive bid laws, or for emergency purchases of more than \$50,000 which are subject to the public works laws, refer to the chapters pertaining to each below.

- 1) "Emergency" signifies a situation that has suddenly arisen and requires speedy action (not enough time to secure an approved purchase order) or the provision of critical services by the City will be seriously interrupted. THE LACK OF PLANNING DOES NOT CONSTITUTE AN EMERGENCY.
- 2) The City Administrator, Finance Director or their appointee shall be made aware of the situation and shall approve the purchase before it is made.
- 3) An emergency purchase form "Attachment B" shall be completed and turned into accounts payable along with the invoice within 72 hours of purchase.

Refer to Section 6.5 for emergency purchases of \$15,000 or more which are subject to the competitive bid laws, or to Section 7.4(5) for emergency purchases of more than \$50,000 which are subject to the public works laws.

SECTION 5.6 – CONFLICT WITH STATE LAWS

In the event of a conflict between these policies, procedures, and regulations and any state law, the provisions of the state law will control.

SECTION 5.7 – FLORAL ARRANGEMENTS

In the event of incidents such as hospitalization, accident, death, etc., involving employees or their immediate family members as defined by the City's personnel policy, it is the City's desire to acknowledge the event by sending a floral arrangement. In an effort to avoid duplication of orders for floral arrangements, all requests for flowers will be centralized and ordered by Human Resources.

In the event that co-workers or the employee's department decide to send a separate arrangement, it will be the responsibility of this group of people to collect the funds and make payment to the florist as this expense should not be charged to the City's account.

SECTION 5.8 – PURCHASES REQUIRING PROPOSALS

~~Any purchases that are \$2,500 or more, up to \$14,999 will require three proposals to be submitted in order to ensure items are purchased at the best possible price.~~

Any purchases that are \$2,500 or more, up to \$14,999, will require three written proposals to be submitted and attached to the purchase requisition in order to ensure items are purchased at the best possible price. Should a vendor fail to respond within two weeks (or a reasonable period of time depending upon your circumstances) or informs you that they are declining to provide a quote, your attempt should be documented and this will serve as one of your quotes. Should time allow, you are encouraged to seek a quote from another vendor.

Exceptions to this requirement are services or items that are available through State contract, approved Purchasing Cooperatives, the South Alabama Purchasing Association (SAPA) or any other approved contract.

SECTION 5.9 – PURCHASE OF COMPUTER/OFFICE EQUIPMENT

When purchasing computer related office equipment, **software packages**, printers, fax machines, etc., the City's IT Department should be contacted to obtain their recommendation and follow their established procedures.

SECTION 5.10 – PROOF OF LIABILITY & WORKERS COMP INSURANCE

If applicable for payment of certain services and labor, Proof of Liability and/or Worker's Comp Insurance must be provided. If a company is not covered by Worker's Comp Insurance, labor and material charges should be separated on the proposal. This should be done in order for the City to determine the Worker's Comp rate (in accordance with the City's current Worker's Comp fee schedule) that will be deducted from payment to the company performing the work.

SECTION 3.10 – TRAVEL EXPENDITURES

Authorization for travel will not be granted and expenses will not be reimbursed unless the travel request is made and reimbursement claimed in accordance with the currently adopted City of Foley Travel Policy and Procedures dated November 5, 2012.

CHAPTER 6

PUBLIC WORKS PROJECTS

(APPLICABLE TO CERTAIN CONTRACTS IN EXCESS OF \$50,000)

SECTION 6.1 – GENERAL

Contracts for "public works" are required to be awarded pursuant to the public works laws if they involve \$50,000 or more **and shall be awarded and let in accordance with Alabama' public works bid laws**. See, Code of Alabama, 1975 § 39-2-1, *et seq.* "Public works" contracts involving expenditures of less than \$50,000 do not have to be bid.

All public works projects shall follow the City's amended bid process as described in Resolution No. 14-0483-RES dated November 3, 2014 and as noted below.

- 1) Requests for Infrastructure Improvement, Repair and Maintenance Projects:**
 - a. All projects are subject to Council's review of the scope of work to be performed (Resolution 14-0445) and adoption of a resolution granting approval to proceed and allocation of budget funds.**
 - b. In the event of approval to bid, the Project Owner shall deliver the resolution to the Purchasing Agent, or other designated Professional Firm, who will oversee the bid process. The approving resolution number will be used in lieu of a purchase order number for purchases made from an approved named contract. Should a resolution not name the contract, a purchase order will be required. Prior to bid/contract price acceptance, additional Council action will be required only if the project will exceed the total budget allocation.**

SECTION 6.2 – DEFINITIONS

“Public works” are defined as the construction, repair, renovation, or maintenance of public buildings, structures, sewers, waterworks, roads, bridges, docks, underpasses, and viaducts as well as any other improvement to be constructed, repaired, renovated, or maintained on public property and to be paid, in whole or in part, with public funds or with financing to be retired with public funds in the form of lease payments or otherwise. (Code of Alabama, 1975, § 39-2-1).

~~“Public property” is defined as being real property which the City owns or has a contractual right to own or purchase, including easements, right-of-ways, or otherwise. (Code of Alabama, 1975, § 39-2-1).~~

SECTION 6.3 – EXEMPTIONS

The following contracts are exempt from the public works laws:

1. Contracts with persons who shall perform only architectural, engineering, construction management, program management, or project management services in support of the public works and who shall not engage in actual construction, repair, renovation, or maintenance of the public works with their own forces, by contract, subcontract, purchase order, lease, or otherwise. (Code of Alabama, § 39-2-2)
2. Force account work
3. Contracts for public works projects less than \$50,000. This exemption must be approved in writing by Administration. Finance will file the written approval.

SECTION 6.4 – REQUIREMENTS

~~Public works projects costing \$50,000 or more are subject to the State Public Works laws, and to the extent not inconsistent therewith, to the following:~~

- ~~1. Plans and Specifications: On any construction project costing \$50,000 or more, all engineering plans, specifications and estimates, shall be prepared by, and the construction executed under, the direct supervision of a professional engineer or registered architect.~~
- ~~2. Domestic Products: All public works contracts shall contain a provision requiring the contractor to use products made in the United States whenever possible. (Code of Alabama, § 39-3-1).~~
- ~~3. Domestic Steel: All public works contracts shall contain a provision requiring the contractor to use steel produced in the United States. (Code of Alabama, § 39-3-4).~~
- ~~4. Resident Contractor Preference: For all public contracts not funded in whole or in part with funds received from a federal agency, preference shall be given to resident contractors over nonresident domiciled in a state having laws granting preference to local contractors on the same basis as the nonresident bidder's state awards contracts to Alabama contractors bidding under similar circumstances. (Code of Alabama, §39-3-5).~~
- ~~5. Emergency Purchases: Purchases in reaction to an emergency affecting public health, safety, or convenience, may be let to the extent necessary to meet the emergency without public~~

~~advertisement. All emergencies must be declared in writing by the municipality, setting forth the nature of the danger to the public health, safety, or convenience.~~

SECTION 7.4 – EMERGENCY PROJECTS

In the case of an emergency affecting public health, safety, or convenience, contracts may be let to the extent necessary to meet the emergency without public advertisement. All emergencies must be declared in writing by the municipality, setting forth the nature of the danger to the public health, safety, or convenience and shall be made public immediately.

6. Sole Source: The plans and specifications for the improvement may not specify the use of materials, products, systems, or services by a sole source except in unique situations. Special care and legal review should be used prior to specifying a sole source.

~~7. Insurance Requirements: Any person, firm, or corporation entering into a contract with the City for a public work project shall have Worker's Compensation and Employers' Liability Insurance Coverage not less than \$100,000 and in addition, General Liability Insurance in an amount deemed appropriate by the City but not less than \$1,000,000 per occurrence which insurance shall be primary to any insurance carried by the City of Foley. The Certificate of Insurance shall name the City of Foley as an additional insured and provide that the insurance limits and coverage will not be cancelled or reduced without giving the City thirty (30) days advance notice.~~

8. Licenses: All bidders must have a General Contractor's License, issued by the Alabama State Licensing Board for General Contractors, prior to bidding on a project, where the cost of undertaking is \$50,000 or more. (More than \$5,000 for swimming pool construction) (Code of Alabama, § 34-8-1).

~~General contractors must comply with all laws, rules, and regulations of the State Licensing Board for General Contractors.~~

~~Any contractor performing any construction work for the City must possess all licenses and permits required by the City of Foley.~~

~~Any contractor must be licensed and registered to do business in the State of Alabama.~~

- ~~9. Solicitation for Bids: Advertisements of public works projects must briefly describe the improvement, state the plans and specifications for the improvement are on file for examination in a designated office of the City, the procedure for obtaining plans and specifications, the time and place in which bids will be received and opened and identify whether pre-qualification is required and where all written pre-qualification information is available for review. (Code of Alabama, §39-2-2). The advertisement shall also state whether the bidders are required to have a General Contractor's License, and if so, that the bidder will be required to put their license number on their bid. (Code of Alabama, § 34-8-8).~~

~~All public works projects exceeding \$50,000 shall be advertised at least once in a newspaper of general circulation published in the City of Foley. (Code of Alabama, § 39-2-2).~~

~~Public works projects that involve an estimated cost in excess of \$500,000 shall also be advertised for sealed bids at least once in three newspapers of general circulation through the State. (Code of Alabama, § 39-2-2).~~

Invitations to bid shall be mailed to persons who have filed a request in writing that they be listed for solicitation for bids for public works contracts. (Code of Alabama, § 39-2-2).

10. Bid Documents: Bid documents will be available upon payment of a deposit equal to twice the cost of printing, reproduction, handling, and distribution of each set. The deposit shall be refundable in accordance with Code of Alabama, § 39-2-3.

11. Pre-Qualification: Pre-qualification of bidders may be done to determine, in advance, whether the bidder is "responsible." This procedure may focus on any aspect of responsibility deemed appropriate, including, but not limited to, competency, financial ability, and experience. If used, the pre-qualification procedure and criteria must be in writing and must:

- a. Be published with the solicitation for bids;
- b. Be related to the purpose of the contract or contracts affected;
- c. Be related to contract requirements or the quality of the product or service in question;
- d. Be related to the responsibility, including the competency, experience, and financial ability, of a bidder; and,
- e. Permit reasonable competition at a level that serves the public interest.

The City shall retain the right to determine whether a contractor has met the pre-qualification procedures and criteria.

Any bidder who has pre-qualified pursuant to this process shall be deemed "responsible" for purposes of award unless the pre-qualification is revoked by the City.

12. Bid Guarantee: Bidders, if called for in the specifications, shall be required to file with his or her bid either a cashier's check drawn on an Alabama bank or a bid bond executed by a surety company duly authorized and qualified to make such bonds in the State of Alabama, payable to the City of Foley equal to five percent (5%) of the contractor's bid up to ten thousand dollars (\$10,000). This bond will act as security for the bid in accordance with Code of Alabama, §39-2-11.

13. Bid Openings: The Purchasing Agent, or his/her designee, is required to attend each bid opening. Supervisor/Department Heads, other staff members, vendors, and the general public are invited and welcome to attend bid openings. Any bid received after the appointed time of opening will not be opened or returned. A tabulation sheet will be prepared as bids are opened. During a bid opening, the City's representatives may question any bidder as to the validity of his/her bid; however, no one representing the City shall make any commitment to a bidder as to a purchase prior to the awarding of the contract.

All bids, together with all documents pertaining to the bid or award of a contract, shall be retained and made part of a file or record for a period of seven (7) years.

The Purchasing Agent, or his/her designee, the department head responsible for placing the contract, and any other City employees or contractors will review the bids in order to determine the lowest responsive and responsible bidder and to determine if the goods or services meet the applicable specifications. In addition, anyone who owns or runs the day-to-day operations of a company that submits a bid or proposal for a City project of \$50,000 or more must complete a questionnaire and

consent to a background check as part of the bid review process. The Purchasing Agent, or his/her designee, will make a recommendation as soon as practicable, but in no event later than ten (10) working days after the bid opening.

14. Background Check: The bid award of "Public Works" projects over \$50,000 will be contingent upon the results of a background check of the successful low bidder as stated in Ordinance No. 1029-08. According to this ordinance, the City of Foley will take criminal histories into account when deciding whether a low bidder is qualified to do work for the City. Anyone who owns or runs the day-to-day operations of a company that submits a bid or proposal for a City project must complete a questionnaire and consent to a background check as part of the bid review process.

15. Award of Contract: After considering the Purchasing Agent's recommendation, and after reviewing any information deemed necessary, a recommendation will be made to the City Council concerning the award of the contract. The contract shall be awarded to the lowest responsible and responsive bidder, unless the City Council finds that all the bids are unreasonable, or that it is not to the interest of the City to accept any of the bids. Minor irregularities in the bid shall not defeat responsiveness. The City reserves the right to reject any or all bids and to waive any informality or deficiency in any bids.

The successful bidder shall be notified by email or letter at the earliest possible date.

16. Force Account: If the City Council finds that all bids received are unreasonable, or that it is not to the interest of the City to accept any of the bids, the City Council may direct that the work shall be done by force account under its direction and control. Force account work must be reviewed by the Department of Examiners of Public Accounts.

17. One or No Bids Received: If one or no bids are received at the time stated in the advertisement for bids, the City may: (a) re-advertise for and seek other competitive bids on the same or different plans; (b) direct that the work shall be done by force account under its direction and control; or (c) negotiate for the work through the receipt of informal bids not subject to the requirements of the public works laws. Where only one responsible and responsive bid has been received, any negotiation for the work shall be for a price lower than that bid.

18. Execution of Contract: The successful bidder shall: (1) enter into a written contract on the form included in the proposal, plans, and specifications; (2) furnish the requisite performance bond and payment bond; and (3) provide evidence of insurance as required by the bid documents within fifteen (15) days after the notification of the award contract.

19. Approval of Bonds and Insurance: The Purchasing Agent or his/her designee shall review and accept or reject the contractor's bonds and insurance. The execution of the contract will be completed within twenty (20) days following presentation by the contractor. (Code of Alabama, § 39-2-9).

20. Certification of Compliance: The Purchasing Agent shall, prior to the execution of final contracts and bonds, certify that the contract to be awarded is let in compliance with the public works laws of the State and all other applicable provisions of law. (Code of Alabama, § 39-5-1).

21. Notice to Proceed: A proceed order shall be issued within fifteen (15) days after final execution of the contract by the City unless both parties agree in writing to a stipulated extension in time for the issuance of a proceed order. (Code of Alabama, § 39-2-10).

22. Contract Not Assignable: No contract awarded to the lowest responsible and responsive bidder shall be assigned by the successful bidder without written consent of the City, and in no event shall a contract be assigned to an unsuccessful bidder whose bid was rejected because he or she was not a responsible or responsive bidder.

23. Partial Payments and Retainage: Unless otherwise provided in the contract documents, partial payments shall be made as the work progresses each month on the estimates made and approved by the City or its agent. In preparing estimates, only the material delivered on the site, materials suitably stored and insured off site, and preparatory work done may be taken into consideration. (Code of Alabama, § 39-2-12).

In making the partial payments, the City shall retain not more than five percent (5%) of the estimated amount of work done and the value of materials stored on the site or suitably stores and insured off site. (Code of Alabama, § 39-2-12).

In lieu of the retained amounts provided for above, the City may provide in the specifications or contracts an alternate procedure for the maintenance of an escrow account or the depositing of security. These alternative procedures are set out at length in Code of Alabama, § 39-2-12.

Nonresident contractors shall satisfy the City that he or she has paid all taxes due and payable to the State of Alabama or any political subdivision thereof prior to receiving final payment for contract work. (Code of Alabama, § 39-2-12).

24. Advertisement of Completion of Project: The contractor must give notice of the completion of the project by an advertisement in a newspaper of general circulation published within the City for a period of four (4) successive weeks. (Code of Alabama, § 39-1-1).

25. Final Payment: Upon completion and acceptance of all work required, and not until at least ten (10) days after last advertisement under the terms of the contract (after any deductions, adjustments, or credits to which the City is entitled) shall be paid upon the contractor's presentation of the following:

- a. A properly executed and duly certified voucher for payment.
- b. A release of all claims and claims of lien against the City arising under and by virtue of the contract, other than such claims of the contractor, if any, as may be specifically excepted by the contractor from the operation of the release in stated amounts to be set forth therein.
- c. Proof of advertisement as provided by law.

26. Change Orders: A change order should be utilized whenever any of the following conditions occur:

- a. An increase or decrease in the contract sum.
- b. An increase or decrease in the contract time.
- c. A material change in the work or scope of work.

Supplemental contracts or change orders for new and additional work are subject to competitive bid in the same manner as the original contract. Only the City Council has the authority to approve change orders, but it may expressly delegate the authority to approve change orders to the Mayor. All change orders must be in writing and must be signed by the contractor and by the Mayor, whose signature must be attested by the City Clerk. All change orders shall be forwarded to the contractor's bonding and insurance companies. State law only allows for change orders in certain limited circumstances. Exemptions to this general rule are:

- a. Minor changes for a total monetary amount less than that required for competitive bidding \$15,000;
- b. Changes for matters relatively minor and incidental to the original contract necessitated by unforeseeable circumstances arising during the course of the work;
- c. Emergencies arising during the course of the work
- d. Changes of alternates provided for in the original bidding and original contract.

SECTION 7.8 – ETHICS DISCLOSURE

Public Officials, employees, and spouses of employees are permitted to submit competitive bids or public works bids if they own or are directly associated with a business that sells a product or provides a service needed by the City of Foley but must disclose their association with this business entity in their response to a bid request. If such bid is deemed to be the most responsive/responsible bid, the agreement/contract entered into shall be submitted to the Ethics Commission within 10 days of the date of the agreement. If the Ethics Commission deems this agreement/contract to be unethical, the contract will become null and void.

SECTION 7.9 – COMPLIANCE WITH THE ALABAMA IMMIGRATION LAW

Vendors/contractors who are awarded a contract as a result of competitive bidding are required to comply with the Alabama Immigration Law, otherwise known as the Beason-Hammon Alabama Taxpayer and Citizen Protection Act. Vendors/contractors are required to provide proof of enrollment in the E-Verify system.

The Act is applicable only to employees and employers in Alabama. An out of state company with no employees in Alabama would not have to comply.

SECTION 7.10 – CONTRACTOR TAX CREDITS/INCENTIVES/REBATES

Should a Contractor seek tax credits, incentives or rebates for energy efficiency programs or any other such program through the Federal or State Government, the Contractor shall inform the City of its intent to apply and shall negotiate terms with the City.

CHAPTER 7

COMPETITIVE BID CONTRACTS

(APPLICABLE TO CERTAIN CONTRACTS OF \$15,000 OR MORE)

SECTION 7.1 – GENERAL:

Purchases of goods or services costing \$15,000 or more and which are not listed in one of the exceptions below must be awarded and let in accordance with Alabama's competitive bid laws (See, Code of Alabama, § 41-16-2, et seq.) and shall follow the City's amended bid process as described in Resolution No. 14-0483-RES dated November 3, 2014 and as noted below.

A. Commodities may be purchased under a State of Alabama Contract, or under a Cooperative Purchasing Contract approved by the Alabama Department of Examiners of Public Accounts, in lieu of going to bid.

B. Requests for procurement of routine operational budgeted items to obtain the lowest unit cost for items to be purchased throughout the year (such as pipe, culverts, fuel, uniforms, etc.) are to be submitted to the Purchasing Agent who will oversee the process of bidding or procurement from approved contracts.

C. Requests for procurement of Capital Purchases, such as equipment and other Departmental operational assets:

a. If included in the current year budget, approval by Council in the form of a resolution to bid or purchase from an approved contract must be given to proceed.

b. If not included in the current year budget, approval by Council in the form of a resolution to appropriate funding and to bid or purchase from an approved named contract must be given to proceed.

c. In the event of approval to bid, the requesting Purchaser shall deliver the resolution to the Purchasing Agent who will oversee the bid process. The approving resolution number will be used in lieu of a purchase order number for purchases from approved named contracts. Should a resolution not name the contract, a purchase order will be required. Prior to bid/contract price acceptance, additional Council action will be required only if the bid award or contract amount exceeds the amount previously approved.

E. Requests for Infrastructure Improvement, Repair and Maintenance Projects:

a. All projects are subject to Council's review of the scope of work to be performed (Resolution 14-0445) and adoption of a resolution granting approval to proceed and allocation of budget funds.

b. In the event of approval to bid, the Project Owner shall deliver the resolution to the Purchasing Agent, or other designated Professional Firm, who will oversee the bid process. The approving resolution number will be used in lieu of a purchase order number for purchases made from an approved named contract. Should a resolution not name the contract, a purchase order will be required. Prior to bid/contract price acceptance, additional Council action will be required only if the the project will exceed the total budget allocation.

In the City of Foley, any purchase of goods, services, and or personal property that is \$15,000 or more will be considered by Supervisor/Department Heads to require bidding under the provisions of the State Bid Laws before a purchase can be made. A request to purchase, giving sufficient data to write bids, will be submitted to Purchasing for bidding. The bid process will be administered by Purchasing—prepare bids, solicit bids, open bids, prepare recommendation to City Council for award. The department will closely advise Purchasing as it carries out the process. If the purchase can be exempted from the bid process, regardless of the reason, documentation will then be attached to a purchase order request that reasonably states for the historical record why the exemption was made. This will include the use of the sole source provision that was discussed earlier in these procedures. Such documents will be filed by Finance.

SECTION 6.1 – COMPETITIVE BID LAWS

- 1) The competitive bid laws have been interpreted by the legal staff of the Department of Examiners of Public Accountants and the State Attorney General's office to mean that all expenditures of funds of whatever nature for labor services, work, or for the purchase or lease of materials, equipment, supplies or other personal property, involving \$15,000 or more, or for the lease of materials,

equipment, supplies, or other personal property where the lessee is or becomes legally and contractually bound under the terms of the lease, to pay a total amount of \$15,000 or more, made by or on behalf of the City of Foley, shall be made under contractual agreement entered into by free and open competitive bidding, on sealed bids, to the lowest responsible bidder.

- 2) This interpretation, also, means like items purchased by the City and its various departments involving \$15,000 or more in a fiscal year must be bid. A more complete discussion of this rule (commonly referred to as unit bidding) is provided in the next paragraph. Purchases may **not** be split in order to avoid the requirements of the bid laws. ***Willful violations of the competitive bid laws and the public works laws may subject the violator to civil and/or criminal penalties.*** Please refer to the chapters below pertaining to public works and competitive bid requirements.
- 3) Unit Bids – State law requires unit bidding in any situation where the City reasonably knows that in a twelve-month period of time, \$15,000 or more of a given service or goods will be purchased. Gasoline, concrete, and white paper are examples. It is the responsibility of each Supervisor/Department Head to recognize these situations at the departmental level and Administration/Finance to recognize the need at a City-wide operational level. Unit bidding follows the same procedures as outlined herein for other competitive bidding.

SECTION 6.2 – CITY’S AMENDED BID PROCESS (RESOLUTION NO. 14-0483-RES)

Purchases of goods or services costing \$15,000 or more and which are not listed in one of the exemptions noted in Section 6.5 must be awarded and let in accordance with Alabama’s competitive bid laws (*See, Code of Alabama, § 41-16-2, et seq.*) and shall follow the City’s amended bid process as described in Resolution No. 14-0483-RES dated November 3, 2014 and as noted below.

- 1) Requests for procurement of routine operational budgeted items to obtain the lowest unit cost for items to be purchased throughout the year (such as pipe, culverts, fuel, uniforms, etc.) are to be submitted to the Purchasing Agent who will oversee the process of bidding or procurement from approved contracts.
- 2) Requests for procurement of Capital Purchases, such as equipment and other Departmental operational assets:
 - a. If included in the current year budget, approval by Council in the form of a resolution to bid or purchase from an approved contract must be given to proceed. Budgeted amount and account number should be noted in the resolution.
 - b. If not included in the current year budget, approval by Council in the form of a resolution to appropriate funding and to bid or purchase from an approved named contract must be given to proceed.
 - c. In the event of approval to bid, the requesting Purchaser shall deliver the resolution to the Purchasing Agent who will oversee the bid process. The approving resolution number will be used in lieu of a purchase order number for purchases from approved named contracts. Should a resolution not name the contract, a purchase order will be required. Prior to bid/contract price acceptance, additional Council action will be required only if the bid award or contract amount exceeds the amount previously approved.

SECTION 6.3 – STATE OF ALABAMA CONTRACTS

Commodities in an amount of \$15,000 or more that are subject to the competitive bid laws are exempt from bidding when purchased through vendors with a current and valid contract awarded by the Alabama Department of Finance - Division of Purchasing. Current State of Alabama contracts can be viewed at <http://www.purchasing.alabama.gov>.

There is an expiration date listed for each State of Alabama contract. Ensure that the contract is still active before contacting the vendor.

SECTION 6.4 – PURCHASING COOPERATIVES

Commodities may be purchased through a Cooperative Purchasing Contract approved by the Alabama Department of Examiners of Public Accounts, in lieu of going to bid, if these goods or services are not at the time available on the State purchasing program or are available at a price equal to or less than that on the State purchasing program. Purchase should be made through a participating Alabama vendor holding an Alabama business license if such a vendor exists.

This shall not apply to goods for which a service or service contract is necessary to utilize the goods. You are not authorized to utilize a purchasing cooperative for the purchase of voice or data wireless communication services.

A list of approved purchasing cooperatives can be found on the Alabama Department of Examiners of Public Accounts website. There is an expiration date listed for each Purchasing Cooperative contract. Ensure that the contract is still active before contacting the vendor.

SECTION 7.2 – EXEMPTIONS:

The only exemptions from the competitive bid laws are as follows:

- 1) Utility services where no competition exists or the rates are fixed by law, regulation, or ordinance.
- 2) Purchase of insurance.
- 3) Purchase of ballots and supplies for conducting any primary, general, special or municipal election.
- 4) ~~Contracts for securing of services of attorneys, physicians, architects, teachers, superintendents of construction, artists, appraisers, engineers, consultants, certified public accountants, public accountant, or other individuals possessing a high degree of professional skill where the personality of the individual plays a decisive part.~~ Purchase of election supplies. However, the lease or purchase of voting machines is not exempt from the bid law.
- 5) Contracts for furnishing of fiscal or financial advice or services.
- 6) Purchase of products made or manufactured by the blind or visually handicapped under the direction or supervision of the Alabama Institute for the Deaf and Blind.
- 7) Purchase of custom software as well as purchases of computer and word processing hardware, when the hardware is the only type compatible with the hardware already owned by the City.
- 8) Purchase of maps or photographs from any federal agency.
- 9) Purchase of manuscripts, books, maps, pamphlets, or periodicals.
- 10) The selection of paying agents and trustees for any security issued by the City.
- 11) ~~Renewal of existing contracts for sanitation or solid waste collection, recycling and disposal between municipalities and/or counties, and those providing the service.~~ Professional service contracts for the codification and publication of the laws and ordinances of a county or municipality.

- 12) Contracts between public entities are not required to be competitively bid. Solid waste disposal contracts between the County and municipalities are not required to be let by competitive bidding.
- 13) Contractual services and purchases of commodities for which there is only one vendor or supplier, and contractual services and purchasing of personal property, which by their very nature are impossible to award by competitive bidding. (See sole source below.)
- 14) Purchase of any product where the price is already regulated and established by state law.
- 15) Contract for the purchase, lease, sale, construction, installation, acquisition, improvement, enlargement or extension of any plant, building, structure or other facility; or any machinery, equipment furniture or furnishing designed or intended for lease or sale for industrial development.
- 16) Repairs and parts for off-highway construction equipment, and all vehicles with a gross vehicle weight rating of 25,000 pounds or greater that do not involve more than \$15,000.
- 17) "Public Works" projects as defined above.
- 18) Purchases of goods made as a part of the purchasing cooperative sponsored by the National Association of Counties, or its successor organization. Approval has been granted to purchase through vendors with a current and valid contract through the Alabama Department of Finance—Division of Purchasing, the Government Services Administration (GSA), and US Communities.
- 19) Contractual services and purchases of commodities for which there is only one vendor or supplier, and contractual services and purchasing of personal property, which by their very nature are impossible to award by competitive bidding. (See sole source below.)
- 20) Purchase of any product where the price is already regulated and established by state law.
- 21) Code of Alabama, Section 4-16-52, provides exception to the provisions of the bid law for repair parts and repair of heavy-duty off-highway construction equipment and of all vehicles with a gross vehicle weight rating of 25,000 pounds or greater. Repairs involving not more than \$15,000 per incident shall not require bidding.
- 22) Code of Alabama, Section 4-16-52, also applies to the leasing of heavy-duty, off-highway construction equipment and all vehicles with a gross vehicle rating of 25,000 pounds or greater when monthly rental is not more than \$5,000 per month per vehicle or equipment and does not exceed \$15,000 a month for all vehicles or equipment leased by the City.

SECTION 7.3— REQUIREMENTS:

For contracts that are subject to the competitive bid laws, the following rules apply:

- 1) Plans and Specifications: Brand names may be used, provided a disclaimer statement is included to allow a bidder to submit a bid on a product that is equal or superior to the brand name requested. The City Council will be the final authority in determining if products are equal, superior or inferior. Departments and areas should plan for the time that bidding requires when considering the need for goods or services.
- 2) Solicitation of Bids: All proposed purchases requiring the letting of bids shall be advertised by posting notice on a bulletin board maintained outside the City Clerk's office and other means that may be required by State law.

Invitations to bid shall also be sent to all persons, firms, or corporations who have requested, in writing, that they be added to the bid list for submission of bids for particular items. If a vendor fails to respond to any solicitation for bid after the receipt of three solicitations, their listing may be cancelled.

Additional means of soliciting bids may also be employed if deemed appropriate.

The notices and invitations to bid will plainly state the date and time the bids will be opened and describe the contract.

3) ~~Proof of Liability & Worker's Comp Insurance: If applicable, Proof of Liability and/or Worker's Comp Insurance shall be provided separately in the bid/proposal. In the event that there is no Worker's Comp Insurance provided, the City (in accordance with the City's current Worker's Comp fee schedule) will deduct this fee from payment to the company performing the work.~~

4) ~~Bid Openings: The Purchasing Agent or his/her designee is required to attend each bid opening. Department heads, other staff members, vendors, and the general public are invited and welcome to attend bid openings. Any bid received after the appointed time of opening will not be opened or returned. A tabulation sheet will be prepared as bids are opened. During a bid opening, the City's representatives may question any bidder as to the validity of his/her bid; however, no one representing the City shall make any commitment to a bidder as to a purchase prior to the awarding of the contract.~~

All bids, together with all documents pertaining to the bid or award of a contract, shall be retained and made part of a file or record for a period of seven (7) years.

The Purchasing Agent, or his/her designee, the department head responsible for placing the contract, and any other City employees or contractors will review the bids in order to determine the lowest responsible bidder and to determine if the goods or services meet the applicable specifications. The Purchasing Agent, or his/her designee, will make a recommendation as soon as practicable, but in no event later than ten (10) working days after the bid opening.

5) ~~Award of Contract: State law does not require that the lowest bid be accepted, but rather the lowest responsible bid. A number of factors can influence whether a bidder is "responsible" or whether one bid is "lower" such as the experience of the bidder, the quality of the goods, professional qualifications, availability, terms of sale, re-sale value, warranty, prior problems with the goods or service from a given source, and any other factors.~~

In the event only one bid is received, the City may reject the bid and negotiate the purchase, provided the purchase price is lower than the bid price.

The City may reject any bid if the price is excessive or the quality of the product is deemed inferior.

Should the City solicit bids and receive none, the City may direct a City employee or agent to negotiate a price with any vendor without soliciting bids a second time.

The City reserves the right to reject any or all bids and to waive any informality or deficiency in any bids.

6) ~~Bid Guaranty: Faithful performance bonds may be required by the City from all bidders provided that 1) bonding is available, 2) the requirement applies to all bidders, and 3) is included in the written specifications for the bid. Whether to require a bid bond is optional on the part of the City.~~

~~7) Performance Bond: A performance bond, in a responsible sum for the faithful performance of the contract and with adequate surety, may be required in an amount specified in the advertisement for bids. (Code of Alabama, § 41-16-58).~~

~~27. Change Orders: Supplemental contracts or change orders for new and additional work are subject to competitive bid in the same manner as the original contract. Only the City Council has the authority to approve change orders, but it may expressly delegate the authority to approve change orders to the Mayor. All change orders must be in writing and must be signed by the contractor and by the Mayor, whose signature must be attested by the City Clerk. All change orders shall be forwarded to the contractor's bonding and insurance companies. State law only allows for change orders in certain limited circumstances. Exemptions to this general rule are:~~

- ~~a. Minor changes for a total monetary amount less than that required for competitive bidding;~~
- ~~b. Changes for matters relatively minor and incidental to the original contract necessitated by unforeseeable circumstances arising during the course of the work;~~
- ~~c. Emergencies arising during the course of the work~~
- ~~d. Changes of alternates provided for in the original bidding and original contract.~~

SECTION 6.6 – EMERGENCY PURCHASING

In the case of an emergency affecting public health, safety or convenience, so declared in writing by the awarding authority setting forth the nature of the danger to public health, safety or convenience involved in delay, contracts may be let without public advertisement to the extent necessary to meet the emergency. Generally, the term “emergency” signifies a situation which has suddenly and unexpectedly arisen which requires speedy action. Such actions and the reasons must be made public immediately by the awarding authority.

SECTION 7.4 – SOLE SOURCE PURCHASING:

Competitive pricing is not required if the goods or services are available only through a single vendor or source. All “sole source” purchases must be approved prior to purchase. Approval of a sole source request for exemption from the competitive bid requirements will be made by Purchasing. Complete documentation to support such a request should be made with the initial request and be sufficient for filing as historical support for the decision to exempt. Purchasing will file all supporting documents.

SECTION 7.5 – LOCAL PREFERENCE FOR PERSONAL PROPERTY PURCHASES:

As per State of Alabama Act 2015-293 and as adopted by the City of Foley by Resolution No. 15-2369-RES dated December 7, 2015, for the purchase or lease of personal property only, a responsible resident person, firm or corporation, whose bid is no more than five percent (5%) greater than the bid from the lowest responsible bidder, may be the successful bidder and the purchase and or contract may be awarded to such resident responsible bidder. A “resident” vendor is defined as one who has a place of business within the police jurisdiction of the City of Foley. It is the policy of the City to purchase from a responsible resident vendor whenever possible.

In accordance with the above referenced Act and Resolution, the City of Foley may also award contracts to a local vendor if that company's submission is within ten percent (10%) of a lower bid from outside the state.

SECTION 7.6 – REVERSE AUCTIONS

Code of Alabama, § 41-16-54 provides that the City can begin using reverse auction procedures on January 1, 2009. Items can be purchased through the use of a reverse auction only if either 1) the item is not available through the state purchasing program for the same terms and conditions, or 2) if the item is purchased for a price equal to or less than that available on the state bid list.

SECTION 6.9 – ETHICS DISCLOSURE

Public Officials, employees, and spouses of employees are permitted to submit competitive bids or public works bids if they own or are directly associated with a business that sells a product or provides a service needed by the City of Foley but must disclose their association with this business entity in their response to a bid request. If such bid is deemed to be the most responsive/responsible bid, the agreement/contract entered into shall be submitted to the Ethics Commission within 10 days of the date of the agreement. If the Ethics Commission deems this agreement/contract to be unethical, the contract will become null and void.

SECTION 6.10 – COMPLIANCE WITH THE ALABAMA IMMIGRATION LAW

Vendors/contractors who are awarded a contract as a result of competitive bidding are required to comply with the Alabama Immigration Law, otherwise known as the Beason-Hammon Alabama Taxpayer and Citizen Protection Act. Vendors/contractors are required to provide proof of enrollment in the E-Verify system.

The Act is applicable only to employees and employers in Alabama. An out of state company with no employees in Alabama would not have to comply.

CHAPTER 8 CONTRACTS

All expenditures of funds of whatever nature for labor services, work, or for the purchase or lease of materials, equipment, supplies or other personal property, involving \$15,000 or more, or for the lease of materials, equipment, supplies or other personal property where the lessee is or becomes legally and contractually bound under the terms of the lease, to pay a total amount of \$15,000 or more, shall be made under contractual agreement entered into by free and open competitive bidding, on sealed bids, to the lowest responsible bidder.

This policy became effective with the adoption of Resolution Number 16-1331, attached; this 5th day of December 2016. A copy of this approved Purchasing Policy/Procedure shall be sent to each Supervisor/Department Head.

John E. Koniar, Mayor
Approved & Signed Per Resolution #16-1331

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ATTACHMENT "A"

PURCHASE ORDER REQUEST

DATE REQUESTED:	
REQUEST MADE BY:	
PAYABLE TO: <i>If VISA CREDIT CARD PURCHASE, WRITE VISA ON THIS LINE</i>	
PURCHASED FROM:	
ADDRESS IF NEW:	
TELEPHONE NO.:	
VENDOR CONTACT:	

REASON FOR REQUEST: _____

QTY.	DESCRIPTION	PRICE	EXTENDED PRICE

(MUST BE COMPLETED)	FROM	UPON RECEIPT	BY	CARD # (LAST 4 DIGITS)	
PAYMENT	P.O.	OF INVOICE	CREDIT CARD		
INSTRUCTIONS:	☐	☐	☐		

TOTAL COST (WITH SHIPPING): _____

G/L ACCOUNT NUMBER: _____

SUPERVISOR APPROVAL: _____

(TO BE COMPLETED BY PURCHASING DEPARTMENT)			
P.O. NUMBER		DATE P.O. ISSUED	

Form Revised: 10/9/13

Account Code Description

Note: All purchases made for a declared emergency, such as a hurricane, will be charged to a special account code created by Finance.

Account Code	Account Type	Examples
1060 5009	Uniforms (Police/Fire/Industrial & Executive Rental)	Uniform Rental/Lease Brass bars Collar brass Emblems/Insignia Hats Honor Guard Uniforms Inner belt Pants Ribbons Shirts Shoes, boots Uniform hat Uniform jacket
4010 6010	Building/Grounds Maintenance	A/C belts A/C maintenance & agreements Ballasts Bug & termite spraying Faucets Fire/burglar monitoring Immobile generators and related costs Irrigation repairs Paints and painting supplies for a specific job Roof repairs Shelves, shelving material (if attached to a building) Signs (if attached to a building, otherwise Small Tools) Supplies to repair faucets, bathrooms, building, etc.
5010 6053	Small Tools/Equipment/ Furniture <i>Items under \$5,000 with a life expectancy of one year or more.</i>	Air Compressor Appliances (stove, refrigerator, washer, dryer, etc.) Batteries (laptop computers, cell phones, defibrillators (std) Calculator Chainsaw Christmas Decorations (except for <u>live</u> plants, etc.) Concession Stand Equipment (rotisserie, fryer, etc.) Computer Related (monitor, keyboard, printer, wireless router, etc.) Desk Accessories (scissors, stapler, staple puller, tape dispenser, etc.) Extension cords Fans File cabinet Fire extinguisher Flashlights Frames (if we are keeping) (picture, certificate, etc.) Free standing shelves

5010 6053	Small Tools/Equipment/ Furniture (continued)	Furnishings (chairs, desk, file cabinets, etc.) under \$5,000 unless it is a group of furnishings such as a conference table with chairs or a matching desk, credenza, file cabinet, etc. that totals over \$5,000 Garden hoses/nozzles Gardening Tools/Equipment (rake, shovel, hedge trimmer, grass trimmer, sprayer, edger, etc.) Janitorial (hand soap dispenser, towel dispenser, etc.) Minute books Office Equipment (copiers, fax machines, printers, etc.) Office Items (stapler, scissors, tape dispenser, calculator, paper clip holder, bookends, etc.) Paint gun Plastic storage boxes/containers Radio Software (Upgrade is general equipment maintenance) Sports Equipment (balls, bases, pitching machine, etc.) Stamps (address, posted, received, faxed, etc.) Telephones (land line phones, cell, cell accessories, etc.) Tools (hammer, pliers, screwdrivers, wrenches, etc.) Traffic cones Trailer hitch Waste basket/garbage cans Window A/C
5020 6049	Supplies	Air Filters (except vehicles & equipment) Bars and chains for ventilator saw for Fire Department Batteries (except for cars, trucks, mowers, & tractors) Bits, replacement Blades (saw, jig saw, etc.) Brooms Business cards Cardboard storage containers Christmas lights (except Beautification) Cleaning supplies Code of Alabama books Envelopes Federal Express Shipping Forms Frames (if giving away) (photo, certificate, etc.) Garbage can liners Gases and gas tank rentals (Airgas), propane Gloves (plastic, cheap leather or cotton) Ink Cartridges Insect Sprays (wasp/hornet, etc.) Janitorial (toilet tissue, paper towels, hand soap, etc.) Keys Light Bulbs (fluorescence & regular) Marking flags Monthly & yearly organizers, calendars Office Supplies (pens, notebooks, folders, paper clips, etc.) Paint/paint brushes (unless used for building maintenance or a specific project) Paper Plywood (unless used for building maintenance or a specific project)

5020 6049	Supplies (cont.)	Replacement handles (hoe, shovels, axes, hammers, etc.) Sand, bagged Soft drinks, water, food stuff, coffee, sugar, creamer, etc. Staples Toner for copier and printers Trimmer line (Weed Eaters) Vehicle maintenance fluids, sprays, cleaners, etc. Welding rods
5050 6067	Personal Gear & Protection	Badge Bike uniforms Dbl mag pouch Duty belt Duty gloves (bike, frisk, etc.) Duty weapons Gun holster Handcuffs and Holster Helmet (PD, Fire, etc.) Hepatitis shots Hydration packs Keeper (hold inner & duty belts together) Name tags Pepper spray & holster Portable radios Rain suits Riding boots Shot guns Slides (for metals) Turnout gear Vaccinations (Hepatitis B) Vests Weapon sites and lights Whistles
6040 6030	General Equipment Maintenance	2-cycle oil Annual maintenance agreements Belts (except for building A/C and vehicles) Blades that can be sharpened & reused Computer maintenance Copier & fax maintenance Drums for copiers Electrical work on trailers (Hazmat, Command Center, etc.) Portable generator maintenance Postage machine maintenance Recharging fire extinguishers Repairs for small tools/equipment Replacement parts Software upgrades and maintenance
7010 5100	Capital Purchases \$5,000 or more	Group Furnishings such as a conference table with chairs or a matching desk, credenza, file cabinet, etc. \$5,000 or more Any individual item costing \$5,000 or more including cost to acquire (ex. shipping, installation, etc.)

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"Attachment C"

AFFIDAVIT OF ALABAMA IMMIGRATION COMPLIANCE

The signed Affidavit must be notarized.

In compliance with Sections 31-13-9 of the Alabama Code, this Affidavit of Alabama Immigration Compliance must be completed and signed by an officer or the owner of a business entity or employer and notarized. Please complete Part I if you do NOT employ one or more employees or Part II if you DO employ one or more employees.

Company Name	
Company Representative	(Please Print Name)
Address	
City, State, & Zip Code	

PART I – (Complete if you do NOT employ one or more employees and notarize below.)

I certify in my capacity as _____ for the above noted business entity that said entity does not employ one or more employees. I further certify that should my status change and I am required to comply, I will submit all required documents to the City of Foley. I have read this Affidavit and swear and affirm that it is true and correct.

Signature of Affiant

PART II – (Complete if you DO employ one or more employees and notarize below.)

As a condition of the above-referenced Entity/Company's receipt of any contract, grant, or incentive from, by or with the City of Foley, Alabama, the undersigned, as such officer, agent or representative of said Company, after being first duly sworn, states as follows:

1. That said Company will not knowingly employ, hire for employment, or continue to employ an unauthorized alien.
2. That said Company has enrolled in, is currently participating in, and will continue to participate in the "E-Verify" program run by the United States Citizenship and Immigration Service Bureau of the United States Department of Homeland Security for the entire term of said Company's performance under any contract, grant, or incentive it has with the City of Foley, Alabama.
3. The undersigned further represents that, should said entity/company employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to the contract with the City of Foley, it will secure from such subcontractor(s) verification of compliance with Section 31-13-9 of the Code of Alabama 1975, in a form substantially similar to this affidavit.

Entity's E-Verify Employment Eligibility Verification User Identification Number is: _____

I have read this Affidavit and swear and affirm that it is true and correct.

Signature of Affiant

NOTARY SECTION

State of _____:
County of _____:

Sworn to and subscribed before me this _____ day of _____, 20____. I certify that the affiant is known (or made known) to me to be the identical party he or she claims to be.

Signature and Seal of Notary Public
My Commission Expires: _____

Please execute, have notarized, and return to the **City of Foley, P.O. Box 1750, Foley, AL 36536.**

Emergency Purchase Request Form

Description of the Emergency Incident that Occurred:

Purchase must be pre-approved by either City Administrator, Finance Director, or their appointee.

Person Approving Purchase: _____

Via: _____ Email _____ Phone _____ In Person

On: _____ (Date) _____ (Time)

Amount of the Emergency Purchase: _____

Vendor: _____

Account Number: _____

Department: _____

Director: _____

Director Signature: _____ Date: _____

A copy of the completed form should accompany the invoice(s) related to the emergency purchase when turned into accounts payable.